

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 63 of 1992

Date of Decision :- March 17, 2007

Babu Ram

....PETITIONER

VERSUS

State of Haryana

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Neeraj Khanna, Advocate (Amicus Curiae)
for the petitioner.

Mr. Kulvir Narwal, Addl. Advocate General, Haryana.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 21.1.1992 of the Sessions Judge, Ambala dismissing the appeal of petitioner against the judgment/order dated 29.8.1991/31.8.1991 of the Judicial Magistrate 1st Class, Ambala Cantt. convicting Babu Ram son of Lachman Ram under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act (hereinafter referred to as the Act) and sentencing him to undergo R.I. for one year and to pay a fine of Rs.2000/-.

The case of the prosecution is that on 26.11.1979 at about 6.30 p.m., Govt. Food Inspector Natha Singh accompanied by Dr.

H.R.Ghosal intercepted the accused coming with a drum of milk for public sale. A sample was taken, after stirring the bulk and making it into a homogeneous sample. The Sample was divided into three equal parts and all legal formalities were completed. A complaint was filed. Natha Singh Govt. Food Inspector PW1 and Dr. H.R.Ghosal PW2 came into the witness box and proved the document.

Learned counsel for the petitioner/accused has argued, that the milk was not made homogeneous and no stirring was done. There is non-compliance of Section 13(2) of the Act, as there was no evidence on record to show that a copy of the report of the Public Analyst was sent and delivered to the petitioner/accused. The mandatory provisions of Rule 16 as regards paper slips to be used for packing and sealing of the sample, were not complied with, as they had been issued by Dr. Kaushalya, a Local Authority and samples were deposited with another Local Authority Dr. H.R.Ghosal PW2.

Learned counsel for the State has rebutted all these arguments put forward by learned counsel for the petitioner/accused.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

Document Ex.PX i.e. an extract of the despatch register of the Local Health Authority showing an entry regarding the despatch of the report of sample to Babu Ram son of Lachhman Chand, Village Babyal Post Office Babyal, Police Station Sadar Ambala City. This was the very address given by him, when the memos were being prepared. The Govt. Food Inspector had certified before the Court, that a copy of the report of

the Public Analyst along with the intimation letter No.GH/78/10, dated. 2.1.1980 was sent to Babu Ram accused, under registered post. Document Ex.PF shows, that the accused was called upon to make an application before the Court within 10 days, so that the sample could be sent, which had been kept by the Local Health Authority, analysed at Central Food Laboratory, Ghaziabad. It clearly shows that Section 13(2) of the Act was complied with.

The argument of learned counsel for the petitioner/accused that sample was issued by one Local Authority Dr. Kaushalya and deposited with another Local Authority, Dr. H.R.Ghosal PW2, is a frivolous argument put forward by learned counsel for the petitioner/accused. There is not one Local Authority, but more than one, where the samples can be kept.

Taking into consideration the testimony of Natha Singh Govt. Food Inspector PW1 and Dr. H.R.Ghosal PW2 and they are corroborating each other inter-se, I do not find any infirmity in the judgment of the learned Sessions Judge, Ambala. Conviction of the petitioner is maintained.

This Court in **Mahavir Vs. State through Govt. Food Inspector, 2000(4) RCR (CrL.) 208** has held that ends of justice would be met if the sentence of the petitioner is reduced to that already undergone. Similarly, Hon'ble Delhi High Court in **Babu Ram Vs. State, 2001(4) RCR (CrL.) 785** has held that this case is also under the Prevention of Food Adulteration Act, 1954, where ends of justice would met if the sentence is reduced to that already undergone.

Sentence awarded to the petitioner seems to be on the higher side. Revision is of the year 1992 and occurrence is of the year 1979. The sword of conviction is hanging on the head of the petitioner for the last 27 years. This itself is a punishment. Sentence of the petitioner is modified to that already undergone.

With the above modification in order of sentence, revision petition is dismissed.

March 17, 2007
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(MEHTAB S.GILL)
JUDGE

WHETHER TO BE REFERRED TO REPORTER? YES/NO